

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

STATE FARM MUTUAL  
AUTOMOBILE INSURANCE  
COMPANY,

Plaintiff,

v.

Case No.: 2:23-cv-342-SPC-KCD

JEFFREY LAMPILA and SIESTA  
PEBBLE, INC.,

Defendants.

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**ORDER**

Before the Court is Plaintiff's Motion for Default Judgment (Doc. 14.) Because the motion fails to comply with the Servicemembers Civil Relief Act, 50 U.S.C. § 3931, it is denied without prejudice.<sup>1</sup>

Under the Servicemembers Civil Relief Act, for “any civil action . . . in which the defendant does not make an appearance,” the court, “before entering judgment for the plaintiff, shall require the plaintiff to file with the court an affidavit—(A) stating whether or not the defendant is in military service and showing necessary facts to support the affidavit; or (B) if the plaintiff is unable to determine whether or not the defendant is in military service, stating that

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<sup>1</sup> “[A] magistrate judge ha[s] authority to deny [a] motion for default judgment.” *Franklin v. Parnell*, 461 F. App'x 823, 825 n.2 (11th Cir. 2011) (citing 28 U.S.C. § 636(b)(1)(A)).

the plaintiff is unable to determine whether or not the defendant is in military service.” 50 U.S.C. § 3931(b)(1). “The requirement for an affidavit . . . may be satisfied by a statement, declaration, verification, or certificate, in writing, subscribed and certified or declared to be true under penalty of perjury.” *Id.* § 3931(b)(4).

Here, State Farm does not state whether Jeffrey Lampila is in the military service of the United States. Based on the statutory language, State Farm must submit an affidavit that provides necessary facts to support that Lampila is not a service member. *See Southeast Farms, Inc. v. Watkins*, No. 3:19-cv-565-J-32MCR, 2019 WL 13155429 (M.D. Fla. Oct. 28, 2019). The Court has no such facts here.

Accordingly, it is now

**ORDERED:**

Plaintiff’s Motion for Default Judgment (Doc. 14) is **DENIED WITHOUT PREJUDICE**. Any renewed motion for default judgment must be filed by **September 1, 2023**.

**ENTERED** in Fort Myers, Florida on August 24, 2023.

  
Kyle C. Dudek  
United States Magistrate Judge

Copies: All Parties of Record